

REMARKS

The Action

The Examiner states that claim 3 appears to be missing.

Applicants respectfully note that claim 3 was cancelled in the Preliminary Amendment dated June 20, 2003.

The Restriction Requirement

The Examiner has required restriction of the claims of this application under 35 U.S.C. § 121 into one of the following seven (7) groups:

Group I: Claims 1, 2, 15, 16, the third compound of 13, and parts of 17 and 20-27 drawn to 1,3-diaminosulfonamides of formula I;

Group II: Claim 4 and parts of 17 and 20-27 drawn to heterocycle containing 4-aminobutylsulfonamides of formula III;

Group III: The first, second, sixth, eighth and ninth compounds of claim 13 and parts of 17 and 20-27 drawn to 1,2-oxazines;

Group IV: The fourth compound of claim 13, and parts of 17 and 20-27 drawn to bis 1,3-thiazoles;

Group V: The fifth compound of claim 13, and parts of 17 and 20-27 drawn to 1,3-diazepin-2-one compounds;

Group VI: The sixth compound of claim 13 and parts of 17 and 20-27 drawn to quinoline compounds; and

Group VII: Claim 18 and parts of claim 19 drawn to complex compositions containing a second active ingredient, classified in class 514, subclass 1, among others.

The Examiner states that claim 13 links Groups I and III-VI, claims 17 and 20-27 link Groups I-VI, and claim 19 links Groups I-VIII. The Examiner also states that if applicants elect Group VII, the complex compositions, then they must also elect a species of added antiviral agent.

The Examiner also states that (1) the patent search required for Group I is not coextensive with that required for Groups II-IV and (2) Group VII and I-VI are related as combination and subcombination. Applicants traverse this restriction on the basis of the procedures set forth in the Manual of Patent Examining Procedure ("MPEP").

The MPEP states that there are two criteria for a proper requirement of restriction between patentably distinct inventions -- (A) the inventions must be independent or distinct as claimed, and (B) there must be a serious burden on the Examiner if restriction is not required. MPEP § 803. The MPEP further states that "[i]f the search and examination of an entire application

can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions." MPEP § 803.

Applicants respectfully request that the Examiner reconsider his restriction requirement in view of these criteria of this MPEP procedural rule.

A search for the compounds of any one of Groups I-VI and Group VII compositions could be carried out simultaneously. A search for a compound of anyone of Groups I-VI would reveal any art for compositions using the compound and any second active ingredient. Thus, there would be no serious search burden on the Examiner if restriction is not required.

Applicants therefore respectfully request that the Examiner consider Groups III and VII together.

If the Examiner does not agree with this proposal, pursuant to 37 C.F.R. § 1.143, applicants provisionally elect, with traverse, the claims of Group III (the first, second, sixth, eighth and ninth compounds of claim 13 and parts of 17 and 20-27) for initial substantive examination. This election is made expressly without waiver of their rights to file for and obtain claims directed to the unelected subject matter in either this application or in divisional or continuing applications claiming priority and benefit from this application under 35 U.S.C. § 120.

Should the Examiner feel that a telephone conference with applicants' representatives would assist the Examiner, he is invited to telephone the undersigned at anytime. Applicants request favorable consideration of the application and early allowance of the pending claims.

Respectfully submitted,



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